IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13811 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAGHUBHAI RAVJIBHAI PATEL
Versus
STATE OF GUJARAT AND ANOTHER

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Appearance :
MR MURALI N DEVNANI for Petitioner.
MS MD MEHTA, AGP for Respondents.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 10/08/2007

ORAL JUDGMENT

1. Rule. Learned AGP waives service for the respondents.

2. In this petition under Article 226 of the Constitution, it is the case of the petitioner that after entering into a transaction of sale of land in the year 1995 sale deed was sent for assessment of market value of the

property and an order dated 28-9-2000 had come to be passed without service of any notice upon the petitioner. He came to know about that order under the provisions of Section 32 A of the Bombay Stamp Act, 1958 (for short "the Act") when notice for recovery of deficit stamp duty along with interest and penalty was issued and served upon the petitioner on or after 23rd April, 2007. Learned counsel for the petitioner submitted that, by the time the petitioner came to know about the impugned orders, period of limitation for making an application for reference under the provisions of Section 32 B of the Act had since long expired. Therefore, he was left with no other remedy except to approach this Court for appropriate relief.

3. Learned AGP, appearing for the respondents, without any affidavit-in-reply on record and on instruction of the officer concerned, submitted that without prejudice to possible contentions of proper service of notices upon the petitioner, the respondents would have no objection to accepting application for a reference, subject to fulfillment of other conditions of Section 32 B of the Act. It was further submitted that without prejudice to the contention that the market value of the property in question and stamp duty due thereon were properly assessed under the provisions of Section 32 A of the Act, an application for reference after depositing necessary amount shall be accepted by the Deputy Collector concerned and if such application with deposit were made on or before 10th September 2007, a statement shall be prepared and the case of the petitioner shall be referred to the Chief Controlling Revenue Authority for its consideration and decision thereon on merits, after affording to the petitioner an opportunity of being heard. It was clearly stated on behalf of the respondents that the application of the petitioner proposed to be made and the reference that may be made on that basis shall not be dismissed only on the ground of limitation, in view

of the submission that the petitioner had not come to know about the impugned order for seven years after its date.

4. Upon above statement being made and recorded, the petition was not pressed for any further relief and was requested to be disposed accordingly. Therefore, the petition is disposed as not pressed for any further relief only with the direction that the parties shall abide by the statements recorded herein above. Rule is made absolute accordingly with no order as to costs.

(D.H.Waghela, J.)

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